IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.34 OF 1996

The Commissioner of Income Tax
Nasik .. Applicant.
V/s.
The Kopargaon SSK Ltd.,
Kolpewadi .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 19TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the parties. The Tribunal has referred following questions for the opinion of this Court, reading as under :

> 1. Whether on the facts and in the circumstances of the case, the Tribunal relying on the Special Bench in the case of Shri Chhatrapati SSK Ltd. (198 ITR 78 -AT), was right in deleting the following additions holding it as allowable expenditure without considering the fact that the expenses
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> | | |
> |---|---|
> | 1. Non-refundable deposit | Rs.8,83,900 |
> | 2. Hutment fund | Rs.1,52,034 |
> | 3. Cane development fund | Rs.9,20,625 |
> | 4. Y.B. Chavan Memorial fund | Rs.3,03,995 |
>
> 2. Whether on the facts and in the circumstances of the case, the ITAT was right in deleting the addition of Rs.73,430/- made on account of Shetkari Sanghatna Nidhi and holding it as not income of the assessee society though it did not make the payment ?

2. In so far as all other items referred in question No.1 except cane development fund is concerned, the issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far as cane development fund is concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra). As such the said issue stands remanded back to the Tribunal for consideration afresh.

3. So far as Question No.2 is concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar SSK Ltd. (supra). As such the said issue stands remanded back to the Tribunal for consideration afresh.

4. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)